

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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S.B., individually, and on behalf of her child, A.W.,

Plaintiff-Appellants,

-vs.-

NEW YORK CITY DEPARTMENT OF EDUCATION,

Defendant-
Appellee.

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**NOTICE OF
SUMMARY
JUDGMENT MOTION**

No. 21-cv-9139

PLEASE TAKE NOTICE, pursuant to this Court’s January 3, 2022 Scheduling Order, in an action before the Honorable Judge Lorna G. Schofield, chambers located at 40 Foley Square, New York, New York, 10007, and upon the pleadings, the May 23, 2021 Impartial Hearing Officer’s (“IHO”)’s Findings of Fact of Fact and Decision No. 200689, the August 5, 2021 Decision of the State Review Officer (“SRO”) No. 21-149, and the Certified Record of said proceedings, Plaintiffs appear and respectfully move this Court to:

(a.) Review SRO Decision No. 21-149 *de novo*, Reverse the SRO’s legal conclusion, and Declare that S.B. had a legal right to appropriate compensatory educational services, the appropriateness of which to be based upon A.W.’s unique circumstances and the relief sought;

(b.) Issue a Declaration that pursuant to the IDEA and New York State implementing laws and regulations, that the Plaintiffs’ SUWS Relief was appropriate in light of A.W.’s unique needs and the specialized services and benefits provided by the SUWS

Program;

(c.) Affirm IHO FOFD No. 200689, specifically those determinations and awards reversed by the SRO, regarding fees, expenses, and related costs incurred relative to A.W.'s attendance to the SUWS Program.

(d.) Determine that pursuant to Section 504 of the ADA, Plaintiffs are entitled to the SUWS Relief as appropriate and equitable compensatory educational services for the Defendant's proven FAPE deprivations, and the IHO's broad discretion in awarding equitable relief;

(e.) Award the Plaintiffs all expenses, fees, and costs incurred and considered as S.B.'s requested SUWS Relief;

(f.) Award the Plaintiff's all legal fees, and otherwise costs, expenses, and interest accrued in associated with this action and the prior proceeding and administrative appeal; and

(g.) Order any and all such other relief as may be appropriate.

Dated: January 24, 2022

New York, New York

Respectfully submitted,

Noelle Boostani

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